

PROOF OF EVIDENCE OF JAMES MARSHALL

THE WELSH MINISTERS (THE CHESTER TO BANGOR TRUNK ROAD IMPROVEMENT (A55) (JUNCTIONS 16 AND 16A IMPROVEMENT REALIGNMENT AND SLIP ROADS)) COMPULSORY PURCHASE ORDER 202-

THE CHESTER TO BANGOR TRUNK ROAD (A55) (JUNCTIONS 16 AND 16A IMPROVEMENT REALIGNMENT AND SLIP ROADS) (SIDE ROADS) ORDER 202-

AND THE CHESTER TO BANGOR TRUNK ROAD (A55) (JUNCTIONS 16 AND 16A IMPROVEMENT REALIGNMENT AND SLIP ROADS) ORDER 202-

COMMERCIAL DEVELOPMENT PROJECTS LIMITED, LAND AT CONWAY ROAD, PENMAENMAWR, NORTH WALES LL34 6PR

EVIDENCE OF JAMES MARSHALL FOR THE PUBLIC INQUIRY COMMENCING ON TUESDAY 21ST SEPTEMBER 2021

RESPONDENT ID: J16-R0004

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1. Introduction

- 1.1 I am James Marshall, Director of Commercial Development Projects Limited (“**CDP**”). I have been a qualified member of the RICS for 30 years and have worked in the property industry since September 1987, for 34 years.
- 1.2 CDP was formed in 1969 and forms the development arm of Marshall Holdings Limited which is the holding company for the Group of Companies involved in development and construction throughout the UK. The Group’s turnover for 2020 was approximately £66m with profits before tax of approximately £5m. These profits are being continually reinvested within the company showing the Directors’ commitment to the company’s future and ensure its continuing growth. During the past 50 years, the company has been involved with in-town retail and leisure schemes, supermarkets, non-food retail and leisure parks, industrial estates, distribution depots, office blocks, hotels and residential developments. The area of activity stretches from Jersey to North Wales and the Isle of Man up to the Scottish Border.

2. **Scope Of Evidence**

- 2.1 I have prepared this proof of evidence to support CDP's objection to the Welsh Ministers (The Chester to Bangor Trunk Road Improvement (A55) (Junctions 16 and 16A Improvement Realignment and Slip Roads)) Compulsory Purchase Order 202-, the Chester to Bangor Trunk Road (A55) (Junctions 16 and 16A Improvement Realignment and Slip Roads) (Side Roads) Order 202- and The Chester to Bangor Trunk Road (A55) (Junctions 16 and 16A Improvement Realignment and Slip Roads Order 202- (the "**Draft Orders**").
- 2.2 CDP is the owner of land at Conway Road, Penmaenmawr, North Wales, LL34 6PR which is referred to as _____ in the Orders (the "**Site**").
- 2.3 In section 3, my evidence will address the factual history of the Site including when it was acquired by CDP, the planning application process in relation to the residential planning permission for the Site and CDP's programme for implementing the planning permission and delivery of the residential development at the Site.
- 2.4 Section 4 of my proof of evidence will also include details of my involvement with the Welsh Government in relation to the consultation for the scheme which is the subject of the Orders and any engagement post the making of the Draft Orders.
- 2.5 I will also provide evidence of CDP's track record of delivering both residential and commercial developments in section 5 of my proof of evidence.

3. **Background And Planning History**

- 3.1 CDP purchased the Site on 6 July 2018 with the intention to submit a planning application for residential development and build out the consented scheme as soon as planning permission was obtained.
- 3.2 CDP instructed planning consultants in 2018 to commence the planning application process and consultation with the public and local ward councillors was undertaken during Q4 of 2018 and Q1 of 2019.
- 3.3 A planning application was submitted to Conwy Borough Council (the "**Council**") in March 2019 for "*erection of 14 dwellings, access and associated works at land adjacent to Conway Road, Penmaenmawr*" and allocated reference number DC/0/46556 (the "**Application**").
- 3.4 The Application was validated by the Council on 8 August 2019 and was approved unanimously by the Council's Planning Committee on 2 October 2019. A section 106 agreement was completed on 10 February 2020 and planning permission reference number DC/0/46556 was granted by the Council on 28 April 2020 (the "**Permission**").
- 3.5 I can confirm that throughout the planning application process, no reference was made by the Council to the scheme proposed by the Draft Orders and how it would impact CDP's proposed development, nor were CDP made aware of any consultation response to the Application from the Welsh Government. I refer the Inspector to the evidence of David Roberts for more detail about the consultation in relation to highways matters but I make reference to the consultation response from Conwy County Borough Council (the "**County Council**") dated 12 November 2019 which is included as Appendix 2 of David Robert's proof of evidence.
- 3.6 The response from the County Council makes a number of requirements that are reflected in the conditions attached to the Permission including a request to wider the footpath from 1.5/1.8 metres to a consistent 2 metres along the Conway Road frontage of the Site. In fact, the response from the County Council demonstrates that following provision of the improvements required by the highway authority, the approved development would be compliant with The Active Travel (Wales) Act and the Active Travel design guidance.
- 3.7 A number of the pre-commencement conditions attached to the Permission were discharged on 20 December 2020 and the remaining pre-commencement conditions were discharged on 23 May 2021 and I refer to Edward Landor's proof of evidence for more detail in relation to this.

- 3.8 The section 106 agreement was varied on 23 May 2021 to amend the affordable housing tenure required in the original agreement to reflect the requirements of the local registered social landlord.
- 3.9 Following the discharge of the pre-commencement conditions, CDP was in a position to implement the Permission and intended to commence development in June 2021 with a view to completion within one year, which was entirely manageable given the size of the approved development. I set out in section 5 of my evidence examples of CDP's previous developments which demonstrate its proven track record in delivering developments of this size and nature, along with more complex developments.
- 3.10 However, upon receipt of the Draft Orders in March 2021, it became immediately clear to me that the development scheme approved by the Permission was rendered non-implementable due to the fact that the cycleway/footway proposed by the Draft Orders cuts across the Site and the houses approved by the Permission.
- 3.11 The provision of the cycleway/footway as proposed by the Draft Orders would remove virtually all the land for the south facing private gardens to the fourteen houses proposed under the Permission and place the Scheme's new wide cycleway and a retaining wall on the garden areas unsociably and unacceptably close to the south facing windows of the proposed houses. There is a significant gradient across the whole CDP development site, with Conway Road being the high point and the parking/internal access road to the proposed development along the north side of the site being the low point. To provide the cycleway of the scale proposed in the Scheme along the Conway Road frontage of the CDP land would require the cycleway land to be raised to the level of the Conway Road with a significant retaining wall structure which would abut and be unreasonably close to the south facing elevations of the authorised proposed new houses. With the working space required for the Scheme under the CPO, which takes about half of each house plot, it renders the fully approved housing development wholly undeliverable. The Scheme would make it impossible to provide the rear garden wall along the Conway Road frontage, (as proposed in the approved development plans) to create south facing private gardens for the houses.
- 3.12 This is clearly demonstrated by drawing number CDP1 attached to CDP's objection to the Draft Orders (CDR004).
- 3.13 The implications of this are clearly significant for CDP in that it has already expended considerable monies and time in obtaining planning permission and readying the Site for commencement of a development which is not now capable of being built out, leaving the Site sterilised. This has already blighted the Site and if the Draft Orders are made in their current form, residential development will not be possible on the Site because (i) the development authorised by the Permission is incapable of being delivered and (ii) even if an alternative permission were to be sought, the

development would not be viable because we would only be able to build two houses off a restricted short access from Conway Road as the full road to the north would not fit within the ownership of the Site.

- 3.14 In section 4 of this evidence, I explain that the Welsh Government's proposals of 4 August 2021 (CDR004), designed in response to CDP's objection, are equally as unhelpful in addressing the issues raised above, due to the large working area required to deliver the amended cycleway/footway proposed by the Welsh Government.

4. **Consultation With The Welsh Government**

- 4.1 As set out earlier in my evidence, I was not made aware of the scheme proposed by the Draft Orders and its significant impact on the development authorised by the Permission at any time during the Application process.
- 4.2 At my request, a virtual meeting with representatives from the Welsh Government took place on 28 July 2020 where I raised the possibility of the proposed footways/cycleway being reduced in width in order to facilitate the CDP proposed development. At that meeting, I requested that the Welsh Government provide an overlay of the proposed scheme showing its impact on the development authorised by the Permission. This was not provided for a further 6 weeks by email dated 4 September 2020 (see Appendix JM1), following which I confirmed by email on 10 September 2020 to the Welsh Government that the cycleway proposals would make it impossible for CDP to carry out its approved development (Appendix JM2).
- 4.3 There was no further contact with the Welsh Government until the draft Orders were received by CDP at the end of March 2021. Despite my clear confirmation to the Welsh Government in September 2020 that the proposed scheme would render CDP's approved Permission non-implementable, no consideration of the Permission appears to have been made in the draft Orders. I refer to section 4 of the evidence of Edward Landor which details how the Environmental Statement for the Scheme also fails to address the existence of the Permission.
- 4.4 CDP issued an objection to the Draft Orders on 30 April 2021 (CDR004).
- 4.5 Following receipt of CDP's objection, a virtual meeting was held between CDP's representatives and the Welsh Government, the details of which are set out in the evidence of Charles Hubbard. No formal response to CDP's objection was received until 4 August (CDR004) at which time the Welsh Government proposed a revised cycleway/footway scheme. However, even if the width of the cycleway/footway were to be reduced, the extensive working area required by the Welsh Government and included in the land to be compulsorily acquired would not allow the CDP development to proceed. In any event, I understand that the Draft Orders do not provide powers for the Welsh Government to acquire any of the land subject to the CPO on a temporary basis. In light of this, the WG is only able to agree any alternative scheme by modifying the CPO or removing plots 1/2, 1/2a and 1/2b from the Draft Orders and undertaking further negotiations with CDP.
- 4.6 I responded to The Welsh Government's proposal of an alternative scheme by way of email dated 5 August (Appendix JM3) in which I asked whether the Welsh Government would be prepared for CDP to provide the retaining wall and reduced width cycleway as part of the CDP development, at the cost of the Welsh Government, eliminating the need for any Site to be acquired under the Draft Orders.

As detailed in CDP's letter to the Welsh Government dated 17 August 2021 (Appendix JM4), any such arrangement would need to be subject to planning permission being granted for the alternative arrangements by Conwy Borough Council. To date, neither my solicitors, Birketts, nor I, have received a response.

5. **CDP's Successful Track Record**

- 5.1 CDP has been operating in the UK for over 50 years. Whilst the company does specialise in delivering commercial developments, it is also involved in developing and building out residential schemes. I have set out below some examples of where CDP and its group companies have delivered residential developments in recent years, showing an established and proven track record, demonstrating its ability to deliver a scheme of 14 dwellings at the Site.
- 5.2 Marshall Homes is part of Marshall Holdings and is one of the group of companies of which CDP is part. It has completed a number of residential schemes of a similar scale and size to the proposed development on the Site in Dalton, Skelmanthorpe, Normnton, Cayton West and Liversidge.
- 5.3 CDP has completed a development of 8 exclusive houses recently in Malton, 11 flats in Leek, 22 in Moseley, 5 in Windsor and 9 in Ashtead. We are currently on site with 4 houses in Wettenhall and looking to start 17 houses in the Wirral before the end of 2021. All of these developments were internally financed from, cash reserves.
- 5.4 CDP also owns 50% of Chartford Homes which has built out over 200 homes in the previous 3 years.

6. **Statement Of Truth**

- 6.1 I declare that the evidence set out in this proof for the inquiry is true and follows accepted good practice. The opinions are my own and are formed from professional judgments based on my experience.



James Marshall

Director of Commercial Development Projects Limited

31 August 2021